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| 10/783,324 | 02/20/2004 | Bently C. Goodwin | 026295.0102PTUS | 6919 |
| 32042 | 7590 | 05/12/2009 | | |
| PATTON BOGGS LLP 8484 WESTPARK DRIVE SUITE 900 MCLEAN, VA 22102 | | | EXAMINER PAULS, JOHN A | |
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|---|--|
| Office Action Summary | Application No. 10/783,324 | Applicant(s) GOODWIN, BENTLY C. | |
| | Examiner JOHN A. PAULS | Art Unit 3686 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>18 June, 2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of Claims

1. This action is in reply to the application filed on 20 February, 2004.
2. Claims 1 - 35 are currently pending and have been examined.

Information Disclosure Statement

3. The Information Disclosure Statement filed on 18 June, 2004 has been considered. An initialed copy of the Form 1449 is enclosed herewith.

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

5. Claims 27 – 35 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The steps recited do not qualify as a statutory process. In order for a method to be considered a "process" under §101, a claimed process must either: (1) be tied to another statutory class (such as a particular apparatus) or (2) transform underlying subject matter (such as an article or materials). Diamond v. Diehr, 450 U.S. 175, 184 (1981); Parker v. Flook, 437 U.S. 584, 588 n.9 (1978); Gottschalk v. Benson, 409 U.S. 63, 70 (1972). If neither of these requirements is met by

the claim, the method is not a patent eligible process under §101 and is non-statutory subject matter. Although the steps are performed using a computer, the computer is a field of use limitation because the steps are human actions that do not require (i.e. are not tied to) the computer.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 1, 5 – 9, 13 – 21 and 25 – 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tartar et al. (US 5,550,734 A).

CLAIMS 1 and 27

Tartar as shown discloses a healthcare accounts receivable management system with the following limitations:

- *a database component operable to maintain electronic remittance notice information for a plurality of healthcare providers, the electronic remittance notice information includes claim adjudication information for a plurality of claims for each of the plurality of healthcare providers and for a plurality of procedures, the claim adjudication information includes information for each of the plurality of claims that includes healthcare provider identifier information, date information, procedure information, denial/allowance information, and financial information; (see at least Tartar column 6 line 10 – 17, column 11 line 36 – 53, column 12 line 46 – 59, column 21 line 31 – 36, column 26 line 28 – 37, column 29 line 12 – 25 and column 36 line 59 to column 37 line 22).*
- *receiving electronic remittance notice information from a third party payer the electronic remittance notice information includes claim adjudication information for a plurality of claims for each of the plurality of healthcare providers and for a plurality of procedures, the claim adjudication information includes information for each of the plurality of claims that includes healthcare provider identifier information, date information, procedure information, denial/allowance information, and financial information; (see at least Tartar column 3 line 59 to column 4 line 12, column 6 line 10 – 17, column 11 line*

36 – 53, column 12 line 46 – 59, column 21 line 31 – 36, column 26 line 28 – 37, column 29 line 12 – 25 and column 36 line 59 to column 37 line 22).

Tartar as shown discloses the limitations above. Tartar does not specifically disclose the following limitations:

- *a processor component operable to access the database component and determine, for a period of time and for a plurality of claims,*
 - *an average denial rate for each of the plurality of procedures for one of the plurality of healthcare providers,*
 - *an average aggregate denial rate for each of the plurality of procedures for the plurality of healthcare providers,*
 - *a weighting factor for each of the plurality of procedures for the one of the plurality of healthcare providers based on the financial information,*
 - *a weighted average denial rate for the period of time for the one of the plurality of healthcare providers based on the weighting factor for each of the plurality of procedures for the one of the plurality of healthcare providers, and*
 - *a weighted average aggregate denial rate for the period of time for the plurality of healthcare providers based on the weighting factor for each of the plurality of procedures for the one of the plurality of healthcare providers.*

However, Tartar does disclose a healthcare accounts receivable management system which includes tracking denials and allowances (see at least Tartar column 21 line 42 – 48 and column 23 line 32 – 37 and line 49 – 52); and daily average sales and total sales for a period for a single

provider or a plurality of providers and based on total products sold or delivered or for a particular product (see at least Tartar column 22 line 33 – 35 and line 43 – 47). Tartar also discloses user configurable management reports (see at least Tartar column 46 line 35 – 38). Also see Tartar “Daily Summarization Processing” column 40 line 45 to column 43 line 14. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the healthcare accounts receivable management system of Tartar so as to have included average denial rates for a provider; aggregate denial rates for a plurality of providers; a weighting factor; and applying the weighting factor to the average and aggregate denial rates in order to allow for effective financial management of a healthcare provider’s business operation, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

CLAIMS 9 and 31

Tartar as shown discloses the above limitations as they relate to Claims 1 and 27 respectively.

Tartar also discloses the following limitations:

- *an average days sales outstanding for each of the plurality of procedures for one of the plurality of healthcare providers; (see at least Tartar column 22 line 33 – 35);*
- *an average aggregate days sales outstanding for each of the plurality of procedures for the plurality of healthcare providers; (see at least Tartar column 21 line 42 – 48 and column 22 line 33 - 35).*

Tartar as shown discloses the limitations above. Tartar does not specifically disclose the following limitations:

- *a days sales outstanding weighting factor for each of the plurality of procedures for the one of the plurality of healthcare providers based on the financial information;*
- *a weighted average days sales outstanding for the period of time for the one of the plurality of healthcare providers based on the days sales outstanding weighting factor for each of the plurality of procedures for the one of the plurality of healthcare providers, and*
- *a weighted average aggregate days sales outstanding for the period of time for the plurality of healthcare providers based on the days sales outstanding weighting factor for each of the plurality of procedures for the one of the plurality of healthcare providers.*

However, Tartar does disclose a healthcare accounts receivable management system which includes tracking daily average sales and total sales for a period for a single provider or a plurality of providers and based on total products sold or delivered or for a particular product (see at least Tartar column 22 line 33 – 35 and line 43 – 47). Tartar also discloses user configurable management reports (see at least Tartar column 46 line 35 – 38). Also see Tartar “Daily Summarization Processing” column 40 line 45 to column 43 line 14.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the healthcare accounts receivable management system of Tartar so as to have included a weighting factor; and applying the weighting factor to the average and aggregate days sales outstanding in order to allow for effective financial management of a healthcare provider’s business operation, since so doing could be performed readily and easily by

any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

CLAIMS 5, 6, 14 and 28

Tartar as shown discloses the above limitations as they relate to Claims 1, 9 and 27 respectively.

Tartar also discloses the following limitations:

- *the financial information includes an average days sales outstanding for a procedure;*
(see at least Tartar column 22 line 33 – 35);
- *the electronic remittance notice information is generated by one or more third party payers;* (see at least Tartar column 3 line 59 to column 4 line 12).

CLAIMS 7, 8, 13, 15 – 20, 29, 30, 32 and 33

Tartar as shown discloses the above limitations as they relate to Claims 1, 9 and 27 respectively.

Tartar does not specifically disclose the following limitations:

- *the processor component is further operable to compare the weighted average denial rate and the weighted average aggregate denial rate.*
- *the processor component is further operable to determine a percentage difference between the weighted average denial rate and the weighted average aggregate denial rate to generate a denial rate equalizer.*
- *the financial information includes an average denial rate for a procedure.*
- *the processor component is further operable to compare the weighted average days sales outstanding and the weighted average aggregate days sales outstanding.*

- *the processor component is further operable to determine a percentage difference between the weighted average days sales outstanding and the weighted average aggregate days sales outstanding to generate a days sales outstanding equalizer.*
- *the processor component is further operable to determine a composite equalizer based on an average of the denial rate equalizer and the days sales outstanding equalizer.*
- *the average of the denial rate equalizer and the days sales outstanding equalizer is a weighted average.*

However, Tartar does disclose a healthcare accounts receivable management system which includes tracking denials and allowances (see at least Tartar column 21 line 42 – 48 and column 23 line 32 – 37 and line 49 – 52); and daily average sales and total sales for a period for a single provider or a plurality of providers and based on total products sold or delivered or for a particular product (see at least Tartar column 22 line 33 – 35 and line 43 – 47). Tartar also discloses user configurable management reports (see at least Tartar column 46 line 35 – 38). Also see Tartar “Daily Summarization Processing” column 40 line 45 to column 43 line 14. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the healthcare accounts receivable management system of Tartar so as to have included average denial rates for a provider; aggregate denial rates for a plurality of providers; average denial rates for a procedure; a weighting factor; and applying the weighting factor to the average and aggregate denial rates as well as average days sales and aggregate days sales. It would also be obvious to compare these measures; determine a percentage difference and compute a composite equalizer in order to allow for effective financial management of a

healthcare provider's business operation, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

CLAIM 21

Tartar as shown discloses a healthcare accounts receivable management system with the following limitations:

- *a database component operable to maintain electronic remittance notice information for a plurality of healthcare providers, the electronic remittance notice information includes claim adjudication information for a plurality of claims for each of the plurality of healthcare providers and for a plurality of procedures, the claim adjudication information includes information for each of the plurality of claims that includes healthcare provider identifier information, date information, procedure information, denial/allowance information, and payment information; (see at least Tartar column 6 line 10 – 17, column 11 line 36 – 53, column 12 line 46 – 59, column 21 line 31 – 36, column 26 line 28 – 37, column 29 line 12 – 25 and column 36 line 59 to column 37 line 22).*

Tartar as shown discloses the above limitations as they relate to Claims 1 and 27 respectively.

Tartar also discloses the following limitations:

- *a processor component operable to access the database component and determine, for a period of time and for a plurality of claims, an average days sales outstanding for each of the plurality of procedures for one of the plurality of healthcare*

providers, an average aggregate days sales outstanding for each of the plurality of procedures for the plurality of healthcare providers; (see at least Tartar column 21 line 42 – 48 and column 22 line 33 - 35).

Tartar as shown discloses the limitations above. Tartar does not specifically disclose the following limitations:

- *a days sales outstanding weighting factor for each of the plurality of procedures for the one of the plurality of healthcare providers based on the financial information;*
- *a weighted average days sales outstanding for the period of time for the one of the plurality of healthcare providers based on the days sales outstanding weighting factor for each of the plurality of procedures for the one of the plurality of healthcare providers;*
- *a weighted average aggregate days sales outstanding for the period of time for the plurality of healthcare providers based on the days sales outstanding weighting factor for each of the plurality of procedures for the one of the plurality of healthcare providers.*

However, Tartar does disclose a healthcare accounts receivable management system which includes tracking daily average sales and total sales for a period for a single provider or a plurality of providers and based on total products sold or delivered or for a particular product (see at least Tartar column 22 line 33 – 35 and line 43 – 47). Tartar also discloses user configurable management reports (see at least Tartar column 46 line 35 – 38). Also see Tartar “Daily Summarization Processing” column 40 line 45 to column 43 line 14.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the healthcare accounts receivable management system of Tartar so as to have included a weighting factor; and applying the weighting factor to the average and aggregate days sales outstanding in order to allow for effective financial management of a healthcare provider's business operation, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

CLAIMS 25 and 26

Tartar as shown discloses the above limitations as they relate to Claim 21. Tartar does not specifically disclose the following limitations:

- *the financial information includes an average denial rate for a procedure;*
- *the processor component is further operable to determine a percentage difference between the weighted average days sales outstanding and the weighted average aggregate days sales outstanding to generate a days sales outstanding equalizer.*

However, Tartar does disclose a healthcare accounts receivable management system which includes tracking denials and allowances (see at least Tartar column 21 line 42 – 48 and column 23 line 32 – 37 and line 49 – 52); and daily average sales and total sales for a period for a single provider or a plurality of providers and based on total products sold or delivered or for a particular product (see at least Tartar column 22 line 33 – 35 and line 43 – 47). Tartar also discloses user configurable management reports (see at least Tartar column 46 line 35 – 38). Also see Tartar “Daily Summarization Processing” column 40 line 45 to column 43 line 14.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the healthcare accounts receivable management system of Tartar so as to have included average denial rates for a provider; aggregate denial rates for a plurality of providers; average denial rates for a procedure; a weighting factor; and applying the weighting factor to the average and aggregate denial rates as well as average days sales and aggregate days sales. It would also be obvious to compare these measures; determine a percentage difference and compute a composite equalizer in order to allow for effective financial management of a healthcare provider's business operation, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

CLAIMS 34 and 35

Tartar as shown discloses the above limitations as they relate to Claim 27. Tartar also discloses the following limitations:

- *receiving the electronic remittance notice information from the system of the one of the plurality of healthcare providers; (see at least Tartar column 10 line 35 – 38);*
- *communicating at least a portion of the electronic remittance notice information to an analysis system; (see at least Tartar column 11 line 23 – 34);*
- *providing an agent on the one of the plurality of healthcare provider systems to initiate transmission to the analysis system; (see at least Tartar column 10 line 21 – 38).*

9. Claims 2 - 4, 10 - 12 and 22 - 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tartar et al. (US 5,550,734 A) and in further view of Boyer et al. (US 6,208,973 B1).

CLAIMS 2 - 4, 10 - 12 and 22 - 24

Tartar as shown discloses the limitations shown above with respect to claim 1, 9 and 21 respectively. Tartar does not specifically disclose the following limitations, however, Boyer does:

- *the financial information includes an amount billed for a procedure;* (see at least Boyer column 11 line 45 – 48);
- *the financial information includes an amount allowed for a procedure;* (see at least Boyer column 11 line 45 – 53);
- *the financial information includes an amount paid for a procedure;* (see at least Boyer column 11 line 45 – 55).

Boyer discloses financial management system which includes financial information from a healthcare adjudication statement. Therefore, it would have been obvious to one of ordinary skill in the art, at the time of the invention, to have modified the accounts receivable management system of Tartar so as to have included financial information from a healthcare adjudication statement, in accordance with the teaching of Boyer, in order to allow for an effective healthcare transaction settlement at the point of care, since so doing could be performed readily and easily by any person of ordinary skill in the art, with neither undue experimentation, nor risk of unexpected results.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry of a general nature or relating to the status of this application or concerning this communication or earlier communications from the Examiner should be directed to **John A. Pauls** whose telephone number is **(571) 270-5557**. The Examiner can normally be reached on Monday-Friday, 9:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, **JERRY O'CONNOR** can be reached at **571.272.6787**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair> . Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at **866.217.9197** (toll-free).

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/J. A. P./

Examiner, Art Unit 3686

Date: 16 April, 2009

/Gerald J. O'Connor/
Supervisory Patent Examiner
Group Art Unit 3686